## REMARKS

The Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

Group I, claim(s) 1 in part, 2-3, 6, and 26, drawn to a pharmaceutical composition that interacts with CDCP1.

Group II, claim(s) 1 in part, 2-3, 6, and 26, drawn to a pharmaceutical composition that modulates the expression or activity of CDCP1 polypeptide.

Group III, claim(s) 4-5 and 27, drawn to a pharmaceutical composition comprising a CDCP1 polypeptide. If this composition is further defined as containing an antibody it may be subject to further restriction.

Group IV, claim(s) 7-12, drawn to a method of treatment or prophylaxis of ovarian cancer.

Group V, claim(s) 13-14, 24-25, drawn to a method of screening for anti-ovarian cancer agents that interact with a CDCP1 polypeptide.

Group VI, claim(s) 15-17, drawn to a method of screening for anti-ovarian cancer agents that modulate expression or activity of a CDCP1 polypeptide.

Group VII, claim(s) 18, drawn to an agent identified by screening for anti-ovarian cancer agents with a CDCP1 polypeptide. This agent may be subject to further restriction when it is further defined. If the agent is an antibody, this group will be combined with Group I.

Group VIII, claim(s) 19-23, drawn to a method of screening for and/or diagnosis or prognosis of ovarian cancer.

Responsive to the Requirement for Restriction, Applicants elect to prosecute the invention of Group IV, claim(s) 7-12, drawn to a method of treatment or prophylaxis of ovarian cancer, with traverse. Applicants respectfully point out to the Examiner that the claims of elected Group IV were mistakenly labeled as Group VI on page 2 of the Office Action.

Applicants respectfully request reconsideration of the Requirement for Restriction, or in the alternative, modification of the Restriction Requirement to allow prosecution of more than one group of claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the groups designated by the Examiner fail to define compositions and methods with properties so distinct as to warrant separate Examination and Search. Claims 7-12 of elected Group IV are drawn to a method of treatment or prophylaxis of ovarian cancer comprising administering an agent that interacts with or modulates the expression or activity of a CDCP1 polypeptide and are fundamentally related to the claims of Groups I, II and III, drawn to pharmaceutical compositions for the treatment and/or prophylaxis of ovarian cancer comprising an agent that interacts with or modulates the expression or activity of a CDCP1 polypeptide.

Applicants respectfully assert that the search for any of the methods separately classified by the Examiner as the invention of Group IV would require an additional search of related classes wherein the inventions of Groups I, II and III are classified, thus resulting in a duplicate search for related material.

Applicants respectfully draw the Examiner's attention to the fact that the methods of treating ovarian cancer comprising administering a therapeutically effective amount of an agent which interacts with or modulates the expression of a CDCP1 polypeptide (claims 7-12 of elected Group IV) would require a search on the agent itself and/or

pharmaceutical compositions comprising the agent as claimed in the claims of Groups I, II and III. Thus, a search on the claims elected by way of the response to the restriction requirement would require a search on the methods for treating ovarian cancer using the agent which interacts with or modulates expression or activity of CDCP1 and may identify references drawn to compositions comprising these agents, as claimed in the claims of Groups I, II and III.

Thus, Applicants submit that the Search and Examination of the entire Application, or, at least, of elected Group IV with Groups I, II and III can be made without serious burden, and therefore the Examiner must examine all of the claims, or in the alternative, at least those of Groups IV with Groups I, II and III, of the Application on the merits.

The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the claims of the present Application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, or, at the least, modification to include the claims drawn to elected Group IV and also the claims of Groups I, II and III is in order.

No fees are believed to be necessitated by the foregoing Response. However, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

In view of the above, withdrawal of the Requirement for Restriction is requested, and an early action on the merits of the claims is courteously solicited.

Respectfully submitted,

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